

Harry D. Gilbert
 Name
Plaintiff (PR)
40083
P.O. Box 7000
Carson City, NV 89702
 Prison Number

UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

Harry D. Gilbert,
 Plaintiff,

vs.

Karen Gedney, Doctor,
Romeo Aranas, Medical Director,
Isidro Baca, Warden,
Johns, Doctor,
John Keast, Director of Nursing
 Defendant(s).

CASE NO. 3:15-CV-00393-MMD-WGC
 (To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
 PURSUANT TO
 42 U.S.C. § 1983

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, Harry D. Gilbert
 (Print Plaintiff's name)

who presently resides at P.O. Box 7000, Carson City, NV 89702, were

violated by the actions of the below named individuals which were directed against

Plaintiff at Nevada Dept of Corrections, Nevada on the following dates
 (institution/city where violation occurred)

2012-present day, and _____
 (Count I) (Count II) (Count III)

Make a copy of this page to provide the below information if you are naming more than five (5) defendants

- 2) Defendant Karen Gedney, Doctor, resides at P.O. Box 7000, Carson City, NV 89702
 (full name of first defendant) (address if first defendant)
 and is employed as Physician/Doctor. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Defendant Doctor Karen Gedney is a doctor at the Northern Nevada Correctional Center in Carson City, Nevada. Def. Gedney is employed by and is an agent of the Northern Nevada Correctional Center and the Nevada Dept of Corrections. Def. Gedney sits on the Hep C committee.

- 3) Defendant Romeo Aranas resides at PO Box 7000 Carson City, NV 89702,
 (full name of first defendant) (address if first defendant)
 and is employed as Medical Director of Nevada Dept of Corrections. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Defendant Romeo Aranas is the medical director for the NDOC. Aranas is employed by and is an agent of the NDOC. He is responsible for overseeing the management and operations of the NDOC's medical services. Aranas is the one responsible for approving hep C treatments for inmates.

- 4) Defendant Warden Isidro Baca resides at PO Box 7000, Carson City, NV 89702
 (full name of first defendant) (address if first defendant)
 and is employed as Warden of NVCC. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Defendant Baca is the warden of NVCC and has held this position for all times relevant to this complaint. He is employed by and is an agent of the NVCC and NDOC. He is responsible for overseeing the management and operations of the NVCC.

- 5) Defendant Doctor Johns resides at PO Box 7000, Carson City, NV, 89702
 (full name of first defendant) (address if first defendant)
 and is employed as Physician/Doctor. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Defendant Johns is a female physician at the NVCC. She is employed by and is an agent of the NVCC and NDOC. Doctor Johns is a member of the panel/committee responsible for approving hep C treatment for prisoners.

6) Defendant John Keast, Jr. resides at P.O. Box 7000, Carson City, NV 89702
 (full name of first defendant) (address if first defendant)
 and is employed as Director of Nursing. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☐ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Def. Keast is the Director of Nursing at the NVCC and is responsible for overseeing and managing the management and operations of the Regional Medical Facility at NVCC.

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343 (a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

This action arises under the Eighth Amendment to the U.S. Const., and is brought pursuant to 42 U.S.C. 1983. The Court has subject matter jurisdiction over this action under 28 U.S.C. 1331, and 1332.

B. NATURE OF THE CASE

1) Briefly state the background of your case.

Plaintiff Harry D. Gilbert ("Plaintiff"), a prisoner of the NDOC, who is currently incarcerated at the Northern Nevada Correctional Center ("NVCC"), brings this action challenging Defendant Doctor Karen Gedney, Romeo Aranas, Medical Director, John Keast, Director of Nursing, Doctor Johns, and Warden Isidro Baca's ("Defendants") deliberate indifference to his serious medical needs, in violation of the Eighth Amendment to the United States Constitution. Specifically, Defendants have refused to provide Plaintiff with any type of treatment for Plaintiff's hepatitis C ("hep C") even though Plaintiff's liver is in danger of failing. If Plaintiff's liver fails he will die. According to Defendant Gedney, the treatment that will cure Plaintiff's hep C - Harvoni - will not be given to Plaintiff because the treatment is "too expensive". Defendants' actions and inactions thus violate Plaintiff's constitutional rights. Plaintiff brings this action pursuant to 42 USC 1983, seeking declaratory and injunctive, and damages to be proven at trial.

C. CAUSE OF ACTION

COUNT I

The following civil rights has been violated: (Against All Def's. - For Violations of the Eighth Amendment Under Color of State Law - Cruel and Unusual Punishment; Section 1983) The acts described in this complaint constitute violations of Plaintiff's rights under the 8th Amendment to the U.S. Const. through 42 USC 1983, and have caused and will continue to cause damages to Plaintiff.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

1. Plaintiff suffers from hepatitis C virus, and has been infected for 21 years. Plaintiff was originally diagnosed with hep C in 1994.
2. Plaintiff has been incarcerated at NMCC since May of 2012.
3. From 2012 to 2015 Plaintiff has put Defendants on notice that he suffers from hep C. Plaintiff has given Defendants notice of his condition by way of formal and informal, official and unofficial methods of communication.
4. Blood work and various tests have been performed on the Plaintiff since 2012 relating to his hep C. The results of the bloodwork and tests indicate that Plaintiff's liver is suffering irreparable damage from hep C, and that his liver is failing from hep C.
5. Plaintiff has requested treatment ^{from Defendants} for his hep C on numerous occasions by way of formal and informal, official and unofficial methods of communication. Specifically, Plaintiff sought, among other treatment, the drug Harvoni. Harvoni is a cure for hep C.
6. Having knowledge of Plaintiff's infection with hep C, the critical condition of his liver from hep C, and Plaintiff's requests for treatment which included requests for Harvoni, Defendants have, nevertheless, refused to give Plaintiff any care or treatment for his hep C.
7. Defendants are aware that Plaintiff requires immediate treatment for his hep C in order to save Plaintiff's life.

(Continuation of Page 4, Factual Allegations,
Part C.)

8. If Plaintiff's liver fails he will die.

9. Defendant Gedney has told Plaintiff that the cost of treating Plaintiff's hep C is "too expensive," and when Plaintiff indicated to Gedney that he may sue the prison in order to receive treatment for his hep C, Defendant Gedney responded to Plaintiff saying "the Courts look to us [NOOC doctors] for medical opinions. So whether you need treatment or not, if we say you don't the Court will side with us."

10. Defendants refuse to treat Plaintiff's hep C because of the costs associated with treatment.

11. Plaintiff is suffering, and will continue to suffer, irreparable harm because of Defendants' refusal to treat his hep C.

12. Defendants' actions, and inactions, were and are motivated by ill ~~with~~ motive and intent, and were and are committed under color of state law with reckless indifference to Plaintiff's rights.

13. Plaintiff has suffered great mental and emotional injuries because of Defendants' deliberate indifference to his medical needs.

14. Defendants' actions ~~have violated~~, and inactions, have violated, continue to violate, and are reasonably expected in the future to violate Plaintiff's constitutional rights.

15. Defendants' unconstitutional actions and inactions are ongoing and continue to violate Plaintiff's rights. As such, Plaintiff has no adequate remedy at law.

16. Plaintiff is entitled to damages, injunctive and declaratory relief.

The following civil rights has been violated: _____

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

The following civil rights has been violated: _____

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below

outline).

- a) Defendants: _____
- b) Name of court and docket number: _____
- c) Disposition (for example, was the case dismissed , appealed or is it still pending?):

- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?**
 ___ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ___ frivolous
___ malicious or ___ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____

- c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes ☐ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) _____ disciplinary hearing; (2) _____ state or federal court decision; (3) _____ state or federal law or regulation; (4) _____ parole board decision; or (5) _____ other _____.

If your answer is "Yes", provide the following information. Grievance Number 20062988860
Date and institution where grievance was filed 11/25/14 at NNCC.

Response to grievance: Summarily denied. <Exhaustion of administrative remedies is an affirmative defense, and is not required in the pleadings>

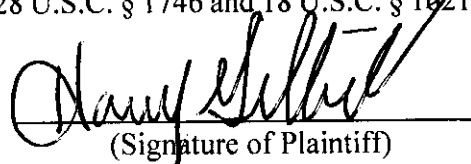
E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

1. A declaration that Defs' acts and omissions violate the Eighth Amendment.
2. An order from the Court requiring Defs. to provide Plaintiff with the medication Haveroni to treat his hep C.
3. Nominal damages ~~against each Defendant~~ for each violation by the Defs. against the Plaintiff's rights.
4. Compensatory damages in an amount to be proven at trial.
5. Punitive damages in an amount to be proven at trial.
6. Such other relief as the Court deems equitable.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Charlie David Jackson
(Name of Person who prepared or helped
prepare this complaint if not Plaintiff)


(Signature of Plaintiff)

9/27/15
(Date)

(Additional space if needed; identify what is being continued)